

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

REZEM FAMILY ASSOCIATES, L.P., : CIVIL ACTION NO. 08-4956 (MLC)
Plaintiff, : **ORDER & JUDGMENT**
v. :
BOROUGH OF MILLSTONE, et al., :
Defendants. :
:

THE COURT ordering plaintiff to show cause why the Court should not dismiss all claims asserted under (a) federal law insofar as asserted against each defendant (i) on the grounds raised in support of certain separate motions to dismiss, and (ii) pursuant to Burford abstention, and (b) state law without prejudice to reinstate in state court pursuant to 28 U.S.C. § 1367 (dkt. entry no. 33, Order to Show Cause); and

THE PLAINTIFF responding that on January 26, 2009, Somerset County executed a real estate contract with plaintiff to purchase the subject property for \$6,850,000.00 (dkt. entry no. 39, Pl. Br. at 1); and plaintiff asserting that

[t]aking this new development into consideration, along with the Court's concerns over the application of the doctrine of Burford abstention, Plaintiff feels that it would be in its best interest to re-file the current action in the New Jersey Superior Court. To that end, Plaintiff respectfully requests leave from the Court to dismiss the current action without prejudice and contemporaneously re-file in State Court

(id. at 2); and plaintiff also asserting that "[a]t this time, Plaintiff feels that its most prudent course of action is to re-

file the current action in the New Jersey Superior Court. To that end, Plaintiff respectfully requests leave from the Court to dismiss the current action without prejudice and contemporaneously re-file in State Court" (id. at 3-4); and plaintiff further asserting that its execution of a real estate contract with Somerset County for the sale of the subject property

has caused Plaintiff to reconsider its position in light of the fact that Plaintiff has now received some compensation for its property. Specifically, Plaintiff's takings claims, as currently pled in Counts II and IV, are moot as Plaintiff's property has recently been purchased.

Furthermore, on January 14, 2009, the Court issued an Order and Order to Show Cause, in which the Court raised questions regarding the Court's ability to review the current action in light of the doctrine of Burford abstention. . . . [I]n light of the Court's apprehension in considering this matter and in light of the recently executed real estate contract, Plaintiff feels that its most prudent course of action at this time is to re-file an amended pleading in New Jersey State Superior Court. Therefore, Plaintiff respectfully requests leave to dismiss its Complaint without prejudice and re-file in State Court

(id. at 20; see also id. at 26 (recognizing "Plaintiff's request for leave to dismiss without prejudice and re-file in New Jersey State Superior Court")); and for good cause appearing;

IT IS THEREFORE on this 23rd day of February, 2009
ORDERED that the Court's order to show cause (dkt. entry no. 33)
is **VACATED**; and

IT IS FURTHER ADJUDGED that the Complaint is **DISMISSED**
WITHOUT PREJUDICE, and with leave to reinitiate the action in
state court by **MARCH 23, 2009**; and

IT IS FURTHER ORDERED that the Clerk of the Court designate
the action as **CLOSED**.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge